

August 9, 2017



Talbot County Planning Commission
Final Decision Summary

Wednesday, July 5, 2017 at 9:00 a.m.

Bradley Meeting Room

11 N. Washington Street, Easton, Maryland

Attendance:

Commission Members:

William Boicourt, Chairman
John N. Fischer, Jr., Vice Chairman
Michael Sullivan (absent)
Paul Spies (absent)
Phillip "Chip" Councill

Staff:

Miguel Salinas, Assistant Planning Officer
Brennan Tarleton, Planner I
Elisa Deflaux, Environmental Planner
Mike Mertaugh, Assistant County Engineer
Tony Kupersmith, Assistant County Attorney
Carole Sellman, Recording Secretary

Call to Order—Commissioner Boicourt called the meeting to order at 9:12 a.m. The meeting was delayed due to a computer malfunction. Commissioner Boicourt explained there were only three (3) Commissioners present. The Bylaws stated that a minimum of three (3) positive votes are required. If any applicant is uncomfortable they can choose to withdraw without penalty and come back at a later date.

1. Decision Summary Review—June 6, 2017—The Commission noted the following corrections to the draft decision summary:

- a. Line 105, correct the word complimentary to read: "complementary"
- b. Line 127, Insert the word "perhaps" so that the sentence reads: "It seems with the Ripple Family considering developing, perhaps the County should consider entering into negotiations for a piece of that land for parking."
- c. Line 312, Ms. Verdery stated that it does "not" have to expand the uses.
- d. Line 349, The sentence which begins with "Finally, he said" is incorrect. Replace with: "Finally he said that he was delighted to see on page 37, paragraph 1.8. that the cap did not support hotels on Knapps Narrows."
- e. Line 366, Commissioner Fischer asked if IDAs are a commercial issue only? Mr. Salinas stated no they do not, an IDA would be beneficial whether a commercial or residential property. Commissioner Fischer clarified that an IDA could be on residential property? Mr. Salinas stated that for example in the case of Tilghman, which this is referring to, it just allows for expansion, eliminates the limitation on lot coverage. Commissioner Fischer stated that was for commercial development, it was not for residential development. In fact, he stated he made the point especially. We are not allowing a homeowner to become an IDA and cover more of his land. Commissioner Boicourt stated that was correct. His recollection was they wanted to have some flexibility to keep the character in the IDA area and have small traditional houses because the setbacks and the lot sizes were really tight, is that correct? Mr. Salinas stated the plan did not indicate where an IDA

could go. The boundaries that were indicated on the map were related to the overlay district. All the plan said was the IDA would be beneficial for commercial expansion, but that the boundaries of the IDA would have to be determined during implementation because there was so much uncertainty as to what the Critical Area Commission would actually approve. Commissioner Fischer stated that they would not approve an IDA for a home. Mr. Salinas said he does not know what they will approve but the intent of the plan was to allow IDA in portions of Tilghman in order to be able to expand commercial uses. But technically, could it cover residential property, yes it could. Commissioner Boicourt stated that the overlay district was not specifically for talking about IDA; the overlay district was to allow for flexibility in the homes. Whether the homes would be an IDA or not, the overlay district probably would, so there probably is not an issue. Commissioner Fischer stated the points made by the Tilghman people were that they are having trouble extending businesses because they can't cover more land, and that is why we considered an IDA might be more useful there. Mr. Salinas stated that is correct in terms of what the plan is intending to do and how to use the IDA. But in just answering the question of does an IDA cover residential, the answer is yes it can. The plan is definitely speaking to commercial uses, with the exception of preserving the character of the traditional homes. Other than that it speaks mostly to revitalizing and protecting property. Commissioner Fischer stated based upon Mr. Salinas' comments he will withdraw the word "only" there. Commissioner Boicourt stated that issue was not brought up as an issue at the discussion. He feels the Commissioners should keep their antennas strong on that issue. Commissioner Fischer said there would be a record of his comments.

- f. Line 371, punctuation should be a semicolon ";" so that it reads: Commissioner Fischer stated we need to be careful with this; he feels it is a slippery slope.

Commissioner Councill moved to approve the draft Planning Commission Decision Summary for June 6, 2017, as amended. Commissioner Fischer seconded the motion. The motion carried unanimously.

2. Old Business—None.

3. New Business

- a. Administrative Variance—Richard C. Young and Kimberly L. Young, #A234—607 Cove Road, St. Michaels, MD 21663, (map 32, grid 10, parcel 105, Lot 7B, zoned Town Residential), Wayde Barnhart, Agent.

Brennan Tarleton presented the staff report of the applicant's request for an expansion to improve a dwelling that was built in the 1960's. The property is located in the Buffer Management Area (#13) where the house is partially located within the 77.56 foot shoreline development buffer. The proposed additions improve the interior floor plan flow, use of the structure and generally bring the house to the 21st century standards relative to normal use. The additional Gross Floor Area (GFA) proposed, 266.5 square feet (19%), is mostly over the existing

house footprint and the majority of the GFA is on the second floor and consists of a vertical expansion. The existing GFA is within 59 feet of mean high water (MHW) and is not proposed to be located any closer with these changes.

Staff comments:

1. The majority of the additions are proposed to be within the building's existing footprint.
2. The proposed project is under the maximum allowed GFA within the BMA.

Staff recommendations include:

1. The applicant shall make an application to the Office of Permits and Inspections, and follow all rules, procedures, and construction timelines as outlined regarding new construction.
2. The applicant shall acquire the proper permits for the outdoor shower facility located on the North end of the house or the shower needs to be removed.
3. The applicant shall commence construction of the proposed improvements within eighteen (18) months from the date of the Planning Office's 'Notice to Proceed'.
4. The applicant shall mitigate for the disturbance to the shoreline buffer with 3 times the disturbance to the shoreline buffer. A buffer management plan will need to be submitted in conjunction with the building permit application.

Christine Dayton and Wayde Barnhart appeared on behalf of the applicant.

Commissioner Boicourt stated that looking at the diagram, the dark areas are existing first floor area, except for those that are cross-hatched which are proposed buffer expansion, is that correct? Mr. Barnhart confirmed the dark areas are existing today. Commissioner Boicourt said then the only issue is the two landing steps which would be good to have. Commissioner Boicourt asked what will be underneath them. Ms. Dayton stated they will be pervious such as mulch or sand. Commissioner Boicourt stated this has changed his mind. It does not represent a major increase in lot coverage in the buffer. Commissioner Fischer stated he is concerned. There is an additional 53 feet in the buffer. What about the next person who has 63 or 83 or a hundred feet in the buffer. How do we judge that; is it simply subjective? The Critical Area Commission made a very good point; it has to be a hardship. Commissioner Boicourt stated we have had to be subjective. This is more than the usual to be honest. Commissioner Fischer stated it is a slippery slope. Mr. Barnhart stated that it is a 45 square foot increase in the buffer and the majority is a vertical expansion as far as GFA is concerned. Commissioner Fischer stated that there is a proposed buffer expansion of 49 square foot expansion in one area and 4 in another, is that correct. Mr. Barnhart stated that is correct. He asked if they are more worried about the septic in the buffer not the critical area is that correct. He said they are trying to take a house built back in the 1960s to accommodate a mother-in-law and father who are ailing

147 and aged and they are going to be taking care of them. So they are trying to make
148 it more habitable and utilize the spaces to make it more manageable.
149 Commissioner Fischer stated he is sympathetic with that and he is not particularly
150 concerned with the 53 square feet. He is concerned with the precedent and how
151 they will rule in the future. Commissioner Boicourt stated one possibility is, if the
152 wooden steps and landing don't count, is to use the proposed steps and make them
153 out of wood and get them out of the hundred foot buffer. Mr. Barnhart stated this
154 project is in a buffer management area of 77.5 feet and it is technically out of the
155 buffer but in the critical area, but the stoop is covered. Commissioner Boicourt
156 asked why was it that the buffer was 77.5 feet and not a 100 foot buffer. Ms.
157 Dayton said it is in a buffer management area and it was figured as an average of
158 the properties in the community. Commissioner Fischer stated it is his point that
159 we have to be careful here and get a more clear definition of how we are judging
160 things. Commissioner Cuncell stated that this is minor and makes sense but we
161 have to have clear guidelines. Commissioner Fischer stated that the Critical Area
162 Commission is edgy here; this is one of the edgiest letters from Critical Area
163 Commission that he has seen in his experience. Commissioner Boicourt stated the
164 Critical Area Commission sends these letters out on these issues when the
165 numbers start to creep up and they are throwing a shot across the Commission's
166 bow, correctly, and asking if this really is an unwarranted hardship. That is
167 putting it on us to determine, with the input from the applicant, whether this is
168 really an unwarranted hardship. This one is not what we usually call a
169 straightforward administrative variance that we would be happy to let the
170 Planning Officer make the decision. I am happy that they brought this forward.
171 This is a more troublesome one for that reason.

172
173 Commissioner Boicourt asked for public comments; none were made.

174
175 **Commissioner Fischer moved to recommend to the Planning Officer to**
176 **approve the administrative variance for Robert C. Young and Kimberly L.**
177 **Young, 607 Cove Road, St. Michaels, Maryland, provided compliance with**
178 **staff recommendations occurs. Commissioner Cuncell seconded the motion.**
179 **The motion carried unanimously.**
180

- 181 b. Administrative Variance—Charles Denney and Mary Denney, #A235—27753
182 Villa Road, Easton, Maryland (map 25, grid 13, parcel 234, Lot 1, zoned Rural
183 Residential), Brett Ewing, Lane Engineering, LLC, Agent.
184

185 Brennan Tarleton presented the staff report for the proposed vertical expansion of
186 an existing garage to create attic storage with a 6'6" ceiling height. No increase in
187 gross floor area (GFA) is proposed.

188
189 Staff Comments:

- 190
191 1. The garage expansion will be a vertical expansion with no linear expansion
192 proposed; no further encroachment into the buffer will occur

- 193 2. Based on the criteria above, staff believes that the applicants have met the
194 requirements for an administrative variance.
195

196 Staff recommendations include:
197

- 198 1. The applicant shall make an application to the Office of Permits and
199 Inspections, and follow all rules, procedures, and construction timelines as
200 outlined regarding new construction.
201 2. The applicant shall commence construction of the proposed improvements
202 within eighteen (18) months from the date of the Planning Office's 'Notice to
203 Proceed'.
204 3. The applicant shall mitigate for the disturbance to the shoreline buffer with 3
205 times the disturbance to the shoreline buffer. A buffer management plan will
206 need to be submitted in conjunction with the building permit application, if
207 applicable.
208

209 Brett Ewing, Lane Engineering, LLC appeared on behalf of Applicants, Charles
210 and Mary Denney. The project is a vertical expansion of an existing garage. They
211 are retaining the existing footprint; no new horizontal expansion. There is a
212 stream buffer running down the west side of the property. Retrofitting the existing
213 garage is the less impact to the buffer than a new garage elsewhere on the
214 property.
215

216 Commissioner Fischer stated that this is one of the type of projects that shouldn't
217 come to the Commission. Commissioner Councill stated he has no problem with
218 it.
219

220 Commissioner Boicourt asked for public comments; none were made.
221

222 **Commissioner Fischer moved to recommend to the Planning Officer to**
223 **approve the administrative variance for Charles Denney and Mary Denney,**
224 **27753 Villa Road, Easton, Maryland, provided compliance with staff**
225 **recommendations occurs. Commissioner Councill seconded the motion. The**
226 **motion carried unanimously.**
227

- 228 c. Special Exception - RDC Harbourtowne, LLC—9784 Martingham Drive, St.
229 Michaels, Maryland and 9599 Melanie Drive, St. Michaels, Maryland (map 23,
230 grid 8 & 1, parcel 1 & 90, zoned Rural Residential/Western Rural Residential),
231 Zach Smith, Esquire, Agent.
232

233 Zach Smith, Armistead, Lee, Rust & Wright, P.A., agent for RDC Harbourtowne,
234 LLC, asked to make a statement. He stated he had appeared before the
235 Commission for this same project in February of this year. They received Site
236 Plan approval and also needed a recommendation from the Commission to the
237 Board of Appeals on the Special Exception. But since the Applicant had not yet
238 obtained a Maryland Department of the Environment (MDE) Permit for impacts

239 to an existing drainage ditch, they were unable to make the request for that
240 recommendation. Mr. Smith stated that since that time they have received their
241 MDE permit and hoped to be back before the Commission this morning. In the
242 interim, their client asked that they make changes to the Site Plan to address
243 concerns they heard in February. But in light of the fact there are only three
244 members and recognizing the consequences of a split vote in this instance, he
245 asked that they defer any action until next month. That will cause a delay in their
246 project and perhaps not allow them to move forward with the driving range this
247 year, but they want to ensure they put the right foot forward and for that reason
248 they ask to postpone.

249
250 Mr. Smith stated they were scheduled for the Board of Appeals on Monday and
251 they would work with Staff to reschedule their Board of Appeals application.
252

- 253 d. Site Plan - RDC Harbournowne, LLC, c/o Capital Properties—E/S Melanie Drive,
254 North of Canvasback Way, St. Michaels, Maryland (map 23, grid 8, parcel 1,
255 zoned Rural Residential/Western Rural Residential), Bill Stagg, Lane
256 Engineering, LLC, and Zach Smith, Esquire, Agent.
257

258 Zach Smith stated he would also like to defer the Site Plan for action until next
259 month's Commission meeting.
260

- 261 e. Celeste Industries Corporation, #C-666—8007 and 7987 Industrial Park Road,
262 Easton, Maryland 21601 (map 35, parcels 54 and 82, zoned Limited Industrial),
263 Zach Smith, Esquire, Agent.
264

265 Tony Kupersmith presented the Staff Report for Celeste Industries Corporation.
266 These are the last two parcels in the Carlton Industrial Park to be annexed into the
267 Town. They are currently zoned the County's LI – Limited Industrial and the
268 Town proposes to zone them to I - Industrial. While these sound similar, there are
269 some differences. There are enough differences to trigger the 5-Year Hold. When
270 the differences are significant enough to trigger the 5-Year Hold, which is a
271 provision in the local government related to annexations, the applicants have to
272 come to the County and request the County waive the 5-Year Hold. The County
273 Council has introduced a Resolution that would waive the 5-Year Hold. The
274 applicant will have to share the plans for the property with the County. Mr.
275 Kupersmith stated the properties are already improved so any changes would be
276 to existing structures. This would also allow them to be connected to the Town's
277 water and sewer system which is a good benefit. The other issue relates to
278 Industrial Park Road. When we do these annexations and you have a road that the
279 County currently owns and maintains, and is serving an area that is or will be
280 fully within the town, the question is whether to transfer the road to the Town.
281 The Town is willing to accept the Road and will add language to the annexation
282 plan. Mr. Kupersmith would ask that the Commission bring to the attention of the
283 County Council to add language to add the Road to the Resolution and to Waive
284 the 5-Year Hold.

285
286 Zach Smith, Armistead, Lee, Rust & Wright, on behalf of Celeste Corporation,
287 along with Gene Dejackome, appeared before the Commission. Mr. Smith stated
288 that Celeste Industries owns two parcels on Industrial Park Road in the Clifton
289 Industrial Park. These properties are already improved and already accommodate
290 industrial land uses. Most people would assume they are already in the Town. In
291 fact, they are the only two parcels in that Industrial Park that are not in the Town
292 of Easton. Celeste Industries Corporation has a long history in Talbot County
293 since the mid-1940s. They manufacture non-hazardous water based cleaning
294 supplies. Their primary customer is actually airlines and they sell those products
295 internationally. These are very much the type of industrial-based jobs many
296 Counties search for and would love to have in their community. Celeste Industries
297 Corporation is here, is committed to being here, they want to stay here, they are
298 very happy with the property, but they desire the connection to town services. A
299 pre-requisite to those connections is annexation into the Town. Working with the
300 Town, County and State, Celeste Industries Corporation has petitioned the Town
301 for annexation of these two properties and upon annexation intends to move
302 forward with those connections. Mr. Smith stated this is a very straight forward
303 application. The property is zoned LI and we propose Industrial zoning which is
304 the closest Town zoning to the County zoning. Mr. Smith asked that the
305 Commission would favorably recommend to waive the 5-Year Hold. Regarding
306 the road, it is their understanding that the Town already maintains the road and
307 they have no issue with accepting the road.
308

309 Commissioner Boicourt stated it is his recollection that from the previous
310 Comprehensive Plan, not the most recent, but the previous, when working out the
311 growth boundaries around the town that this annexation was a discussion point.
312 He asked for confirmation that there is a sewer issue. We are happy to get that
313 entire area on sewer. If so that makes this clear to do. Mr. Smith stated there was
314 an action to annex all of Clifton Industrial Park, around 2006. At that time
315 Aphenia and Celeste opted out. Since that time Aphenia has been annexed into the
316 Town and these are the last two parcels to be annexed into the Town.
317

318 Commissioner Boicourt asked for public comments; none were made.
319

320 **Commissioner Fischer moved to recommend the County Council approve the**
321 **Waiver of the 5-Year Hold of Map 35, Parcels 54 and 82, with the condition**
322 **of the transfer of Industrial Park Road. Commissioner Councill seconded**
323 **the motion. The motion carried unanimously.**
324

325 **5. Discussions Items**

326 **6. Staff Matters**

327 **7. WorkSessions**
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329
330

331 **8. Commission Matters**

- 332
- 333 **a.** Commissioner Councell advised that he will be out of town on August 2, 2017.
- 334

335 **9. Adjournment**—Commissioner Boicourt adjourned the meeting at 9:49 a.m.

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